

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 03-0007P  
Gross Income Tax  
For Calendar Years 1998, 1999, and 2000**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

At audit it was determined that the taxpayer failed to report gross receipts for Indiana. Taxpayer receives income from a subsidiary for services provided under a management agreement. Adjustments were also necessary for Adjusted Gross Income under the apportionment schedules for Indiana sales that had no effect for AGI as the taxpayer had considerable losses.

Taxpayer filed a penalty protest dated November 21, 2002 stating that it did not willfully underpay taxes to the state of Indiana and has filed all subsequent returns in compliance with Indiana statutes.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed and states it did not willfully underpay taxes to the state of Indiana. Taxpayer states that as a result of the audit, it filed its 2001 return under the same guidelines prescribed by the audit.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure

to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

Taxpayer failed to report Indiana income although it had rented property and payrolls in the state. Taxpayer did not make itself aware of the Indiana tax laws when doing business in this state and has not provided reasonable cause to allow the department to waive the penalty.

**FINDING**

Taxpayer’s protest is denied.

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